

# Learning Outcomes

- Able to understand the meaning of consumer;
- Understand the concept of consumer protection;
- Understand the outline the need for consumer protection;
- Understand the rights of consumers;
- Understand the main provisions of Consumer Protection Act, 1986
- Understand the outline machinery for settlement of consumer grievances.
- Key points of The Consumer Protection Act, 2019

# Objectives

- Outline the need of Consumer Protection
- Outline Machinery for settlement of consumer grievances
- Describe the main provisions of Consumer Protections Act, 1986 and 2019
- Understand the advantages and changes of new Consumer Protection Act, 2019, which replaces the old Consumer Protection Act 1986.

# Introduction

- Every human being buy a variety of goods and services in their day-to-day life. Whatever they buy have to pay for it and derive satisfaction from its consumption and use. But sometimes they do not feel satisfied with the product they buy. This may be on account of poor quality of the product, overcharging by the shopkeeper, lower quantity of contents, misleading advertisement, and so on.

# Consumer

- Consumer is a person who consumes or uses any goods or services.
- Goods may be consumables like wheat flour, salt, sugar, fruit etc. or durable items like television, refrigerator, toaster, mixer, bicycle etc.
- Services refer to items like electricity, cooking gas, telephone, transportation, film show etc.
- Normally, it is the consumption or use of goods and services that makes the person to be called as 'consumer'. But in the eyes of law, both the person who buys any goods or hires any service for consideration(price) and the one who uses such goods and services with the approval of the buyer are termed as consumers.
- For example, when your father buys apple for you and you consume them, your father as well as yourself are treated as consumers.
- The same thing applies to hiring a taxi to go to your school. In other words, even the buyer of goods and services whether he uses them himself or purchases them for consumption or use by some other person(s) is treated as consumer in the eyes of law.
- However, a person who buys goods for resale (like wholesaler, retailer, etc.) or for any commercial purpose is not treated as consumer.
- Under the Consumer Protection Act 1986, the word Consumer has been defined separately for the purpose of goods and services.

# Concept of Consumer Protection

Consumer protection means safeguarding the interest and rights of consumers. In other words, it refers to the measures adopted for the protection of consumers from unscrupulous and unethical malpractices by the business and to provide them speedy redressal of their grievances.

## Need for Consumer Protection –

- Social Responsibility
- Increasing Awareness
- Consumer Satisfaction (trader should treat consumer as god)
- Principle of Social Justice
- Principle of Trusteeship
- Survival and Growth of Business

# Ways and Means of Consumer Protections

- **Lok Adalat**
- **Public Interest Litigation**
- **Redressal Forums and Consumer Protection Councils**
- **Awareness Programme**
- **Consumer Organisations**
- **Consumer Welfare Fund**
- **Legislative Measures**

# Consumer Organisations

Some of the important Consumer Organisations that have been playing an active role in taking up consumer cause are:

- CERC (Consumer Education and Research Centre), Ahmedabad
- VOICE (Voluntary Organisation in the Interest of Consumer Education), New Delhi
- CGSI (Consumer Guidance Society of India), Mumbai
- CAG (Consumer Action Group), Chennai
- CUTS (Consumer Unity and Trust Society), Jaipur
- Common Cause, New Delhi
- Consumer Education Centre, Hyderabad
- Karnataka Consumer Service Society, Bangalore
- Kerala State Consumers Coordination Committee, Cochin

These organisations are collecting data on different products and testing them, investigating into the problems of consumers, publishing and distributing brochures and journals, organising consumer awareness programmes, filing complaints, suits and writ petitions on behalf of the consumers, etc.

# Legislative Measures to Consumer Protection

- A number of laws have been enacted in India to safeguard the interest of consumers and protect them from unscrupulous and unethical practices of the businessmen. Some of these Acts are as follows:
- (i) Drug Control Act, 1950
- (ii) Agricultural Products (Grading and Marketing) Act, 1937
- (iii) Industries (Development and Regulation) Act, 1951
- (iv) Prevention of Food Adulteration Act, 1954
- (v) Essential Commodities Act, 1955
- (vi) The Standards of Weights and Measures Act, 1956
- (vii) Monopolies and Restrictive Trade Practices Act, 1969
- (viii) Prevention of Black-marketing and Maintenance of Essential Supplies Act, 1980
- (ix) Bureau of Indian Standards Act, 1986



# The Consumer Protection Act, 1986

## (Act No. 68 of 1986)

(w.e.f. 15<sup>th</sup> Apr, 1987 and July 1<sup>st</sup>, 1987)

- In order to protect the interest of the Consumer number of legislations are enacted. One of the most important social security legislation is The Consumer Protection Act, 1986. Which is came into force from **15<sup>th</sup> March , 1987**. Let us know the provisions of the legislation i.e. the rights of consumers, legal provisions and mechanism for settlement of consumer grievances, and see the changes as per New Act i.e. The Consumer Protection Act, 2019
- **Object:** Act is to provide for better protection of the interests of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumers' disputes, namely District Consumer Dispute Redressal Forum, State Consumer Dispute Redressal Commission and National Consumer Dispute Redressal Commission.

# Rights of the Consumers

- John F, Kennedy, the former USA President, in his message to consumer had given FOUR rights to consumers on March 15<sup>th</sup> 1962. . These rights are- (i) right to safety, (ii) right to be informed, (iii) right to choose and (iv) right to be heard.
- March 15<sup>th</sup> \_World Consumer Rights Day.
- Jan 24<sup>th</sup> – National Consumers Rights Day
- These rights had paved the way for organised consumer movement in the USA and later it spread all over the world.
- In India, the Consumer Protection Act, 1986 has also provided for the same rights to consumers. These rights are (i) right to safety, (ii) right to be informed, (iii) right to choose, (iv) right to be heard, (v) right to redress and (vi) right to represent. Let us have a brief idea about these rights of consumers.

# (1) Right to Safety:

- A consumer has the right to safety against such goods and services as are hazardous to his health, life and property.
- For example, spurious and substandard drugs; appliances made of low quality raw material, such as, electric press, pressure cooker, etc. and low quality food products like bread, milk, jam, butter, etc. The consumers have the right to safety against the loss caused by such products.

## **(2) Right to be Informed/Right to Representation:**

- A consumer has also the right that he should be provided with all the information on the basis of which he decides to buy goods or services. Such information relate to quality, purity, potency, standard, date of manufacture, method of use, etc. of the commodity. Thus, a producer is required to provide all such information in a proper manner, so the consumer is not cheated.

## (3) Right to Choose:

- A consumer has the absolute right to buy any goods or services of his choice from among the different goods or services available in the market.
- In other words, no seller can influence his choice in an unfair manner. If any seller does so, it will be deemed as interference in his right to choice.

## (4) Right to be Heard:

- A consumer has the right that his complaint be heard.
- Under this right, the consumer can file a complaint against all those things which are prejudicial to his interest.
- First, their rights mentioned above (Right to Safety; Right to be informed and Right to choose) have relevance only if the consumer has the right to file his complaint against them.
- These days, several large organisations have set up Consumer Service Cells with a view to providing the consumer the right to be heard.

## **(5) Right to Seek Redressal:**

- This right provides compensation to the consumers against unfair trade practice of the seller.
- For instance, if the quantity and quality of the product do not conform to those promised by the seller, the buyer has the right to claim compensation.
- Several redressal are available to the consumer by way of compensation, such as free repair of the product, taking back of the product with refund of money, changing of the product by the seller.

## (6) Right to Consumer Education:

- Consumer education refers to educating the consumer constantly with regard to their rights. In other words, consumers must be aware of the rights they enjoy against the loss they suffer on account of goods and services purchased by them. Government has taken several measures to educate the consumers.
- For instance, Ministry of Civil Supplies publishes a quarterly magazine under the title “Upbhokta Jagran”. Doordarshan telecasts a programme like the “Sanrakshan Upbhokta Ka” and apart from this, Consumer Day is observed on March 15 every year.



# Consumer Sec.2(d)

## Consumer means any person who-

- (i) **buys any goods for a consideration** which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or
- (ii) **hires or avails of any services for a consideration** which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who <sup>1</sup>[hires or avails of] the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payments, when such services are availed of with the approval of the first-mentioned person;
- Explanation : For the purposes of sub-clause (i), "commercial purpose" does not include use by a consumer of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment;

**Sec. 2(e) "consumer dispute"** means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint;

**Sec. 2 (f) "defect"** means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force or under any contract, express or implied, or as is claimed by the trader in any manner whatsoever in relation to any goods;

Ex: Turmeric powder sold with mixture of yellow colour.

**Sec. 2 (g) "deficiency"** means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service;

EX: A passenger traveled in a deluxe bus but the seat was very much uncomfortable.

# Goods and Services

- The term 'goods' under this Act has the same meaning as under the sale of goods Act. Accordingly it covers all types of movable property other than money and includes stocks and shares, growing crops, etc.
- The term 'service' means service of any description made available to potential users and includes banking, financing, housing construction, insurance, entertainment, transport, supply of electrical and other energy, boarding and lodging, amusement, etc. The services of doctors, engineers, architects, lawyers etc. are included under the provisions of Consumer Protection Act.

## Instances of Consumer exploitations :

The most common business malpractices leading to consumer exploitation are given below.

- (a) Sale of adulterated goods i.e., adding something inferior to the product being sold.
- (b) Sale of spurious goods i.e., selling something of little value instead of the real product.
- (c) Sale of sub-standard goods i.e., sale of goods which do not confirm to prescribed quality standards.
- (d) Sale of duplicate goods.
- (e) Use of false weights and measures leading to underweight.
- (f) Hoarding and black-marketing leading to scarcity and rise in price.
- (g) Charging more than the Maximum Retail Price (MRP) fixed for the product.
- (h) Supply of defective goods.
- (i) Misleading advertisements i.e., advertisements falsely claiming a product or service to be of superior quality, grade or standard.

# Salient Features of the C.P.Act,1986

- This Act is applicable on all the products and services, until or unless any product or service is especially debarred out of the scope of this Act by the Central Government.
- This Act is applicable to all the areas whether private, public or cooperative.
- **Three-tier Grievances Redressal Machinery:**  
Consumer courts have been established so that the consumers can enjoy their rights. This Act presents Three- tier Grievances Redressal Machinery:
  - (i) At District Level-District Forum
  - (ii) At State Level -State Commission
  - (iii) At National Level – National Commission
- To favour consumer protection and to encourage consumer's awareness there is a provision in this Act to establish Consumer Protection Councils.
- A main feature of the Act is that under this, the cases are decided in a limited time of period.

# Who can file a complaint?

The following persons can file a complaint under Consumer Protection Act, 1986:

- (a) a consumer;
- (b) any recognised voluntary consumer association whether the consumer is a member of that association or not;  
(Ex. Consumer Organisations- (1) CERC (Consumer Education and Research Centre), Ahmedabad (2) VOICE (Voluntary Organisation in the Interest of Consumer Education), New Delhi, (3) Consumer Education Center, Hyderabad, (4) Common Causes, New Delhi, etc.
- (c) the Central or any State Government;
- (d) one or more consumers where these are numerous consumers having same interest, and
- (e) Legal heir or representative in case of death of a consumer.

## Agencies to settle the C.Disputes:

- District consumer Dispute Redressal Forum (District Forums) at the district level.
- State Consumer Disputes Redressal Commission (State Commission) at state levels, and
- National Consumer Disputes Redressal Commission (National Commission) at National level .

# District Forum

- This is established by the state governments in each of its districts.
- (a) Composition: The district forums consist of a Chairman and two other members one of whom shall be a woman. The district forums are headed by the person of the rank of a District Judge.
- (b) Jurisdiction: A written complaint can be filed before the District Consumer forum where the value of goods or services and the compensation claimed does not exceed Rs. 20 lakh.
- Appeal: If a consumer is not satisfied by the decision of the District forum, he can challenge the same before the State Commission, within 30 days of the order



# State Commission

- This is established by the state governments in their respective states.
- (a) Composition: The State Commission consists of a President and not less than two and not more than such number of members as may be prescribed, one of whom shall be a women. The Commission is headed by a person of the level of High Court judge.
- (b) Jurisdiction: A written complaint can be filed before the State Commission where the value of goods or services and the compensation claimed exceeds Rs. 20 lakh but does not exceed Rs. One crore.
- (c) Appeal: In case the aggrieved party is not satisfied with the order of the State Commission he can appeal to the National Commission within 30 days of passing of the order.

# National Commission

- The National commission was constituted in 1988 by the central government. It is the apex body in the three tier judicial machinery set up by the government for redressal of consumer grievances. Its office is situated at Janpath Bhawan (Old Indian Oil Bhawan), A Wing, 5th Floor, Janpath, New Delhi.
- (a) Composition: It consists of a President and not less than four and not more than such members as may be prescribed, one of whom shall be a woman. The National Commission is headed by a sitting or retired judge of the Supreme Court.
- (b) Jurisdiction: All complaints pertaining to those goods or services and compensation whose value is more than Rs. one crore can be filed directly before the National Commission.
- (c) Appeal: An appeal can be filed against the order of the National Commission to the Supreme Court within 30 days from the date of order passed.
- It may be noted that in order to attain the objects of the Consumers Protection Act, the National Commission has also been conferred with the powers of administrative control over all the State Commissions by calling for periodical returns regarding the institution, disposal and pending of cases and issuing instructions for adoption of uniform procedures, etc.

# What are the reliefs available to consumers?

- Depending on the nature of complaint and the relief sought by the consumer, and the facts of the case, the Redressal Forum/Commission may order one or more of the following reliefs:
- (a) Removal of defects from the goods or deficiencies in services in question.
- (b) Replacement of the defective goods.
- (c) Refund of the price paid.
- (d) Award of compensation for loss or injury suffered.
- (e) Discontinuance of unfair trade practices or restrictive trade practice or not to repeat them.
- (f) Withdrawal of hazardous or dangerous goods from being offered for sale.
- (g) Provision of adequate costs to aggrieved parties.

# The Consumer Protection Act, 2019

(Act No. 35 OF 2019)

- The Digital Era of commerce and digital branding, as well as a new set of customer expectations, digitization has provided easy access, a large variety of choice, convenient payment mechanisms, improved services and shopping as per convenience. However, along the growth path it also brought in challenges related to consumer protection.
- Keeping this in mind and to address the new set of challenges faced by consumers in the digital age, the Indian Parliament, passed the landmark Consumer Protection Act, 2019 which aims to provide the timely and effective administration and settlement of consumer disputes.
- The Consumer Protection Act, 2019 (New Act) replace the more than 3 (three) decades old Consumer Protection Act, 1986 (Act).

# The Consumer Protection Act, 2019

## Key Highlights

- Widened the **definition of 'consumer'**: The definition now includes any person who buys any goods, whether through offline or online transactions, electronic means, teleshopping, direct selling or multi-level marketing
- **Enhancement of Territorial Jurisdiction**: The 2019 Act now provides an added advantage to the consumers by providing for filing of complaints where the complainant resides or personally works for gain as against the 1986 Act which only provides for filing of complaint where the opposite party resides or carry on business. This would help in removing the difficulties faced by the consumers in seeking redressal of their grievances against businesses who may not have an office or branch in their state.

## Enhancement of Pecuniary Jurisdiction:

- Revised pecuniary limits have been fixed under the New Act. Accordingly, the district forum can now entertain consumer complaints where the value of goods or services paid does not exceed INR 10,000,000 (Indian Rupees Ten Million).(i.e. one Crore)
- The State Commission can entertain disputes where such value exceeds INR 10,000,000 (Indian Rupees Ten Million) but does not exceed INR 100,000,000 (Indian Rupees One Hundred Million), and
- The National Commission can exercise jurisdiction where such value exceeds INR 100,000,000 (INR One Hundred Million)(i.e.10 Crores).

## Alternate Dispute Resolution –

- Another provision introduced by the 2019 Act to ensure speedy resolution of disputes is to provide for referring the disputes to mediation. As per the 2019 Act, the Consumer Forum shall refer the matter to mediation on written consent of both the parties. For this purpose, the 2019 Act also provides for establishment of a consumer mediation cell by the respective State Governments in each District Commission and State Commission as well as at the National Commission by the Central Government.

## E-Complaints :

- The 2019 Act also provides for filing of Complaints before the District Forums electronically in accordance with the rules which are to be prescribed by the Government.
- E-Filing of Complaints: The New Act provides flexibility to the consumer to file complaints with the jurisdictional consumer forum located at the place of residence or work of the consumer. This is unlike the current practice of filing it at the place of purchase or where the seller has its registered office address. The New Act also contains enabling provisions for consumers to file complaints electronically and for hearing and/or examining parties through video-conferencing. This is aimed to provide procedural ease and reduce inconvenience and harassment for the consumers.



# Establishment of Central Consumer Protection Authority:

- The New Act proposes the establishment of a regulatory authority known as the Central Consumer Protection Authority (CCPA), with wide powers of enforcement. The CCPA will have an investigation wing, headed by a Director-General, which may conduct inquiry or investigation into consumer law violations.
- - The CCPA has been granted wide powers to take suo-moto actions, recall products, order reimbursement of the price of goods/services, cancel licenses and file class action suits, if a consumer complaint affects more than 1 (one) individual.

## Product Liability & Penal Consequences:

- The New Act has introduced the concept of product liability and brings within its scope, the product manufacturer, product service provider and product seller, for any claim for compensation.
- The term 'product seller' is defined to include a person who is involved in placing the product for a commercial purpose and as such would include e-commerce platforms as well.
- The defense that e-commerce platforms merely act as 'platforms' or 'aggregators' will not be accepted.
- There are increased liability risks for manufacturers as compared to product service providers and product sellers, considering that under the New Act, manufacturers will be liable in product liability action even where he proves that he was not negligent or fraudulent in making the express warranty of a product.
- Certain exceptions have been provided under the New Act from liability claims, such as, that the product seller will not be liable where the product has been misused, altered or modified.

# Unfair Trade Practices:

- The New Act introduces a specific broad definition of Unfair Trade Practices, which also includes sharing of personal information given by the consumer in confidence, unless such disclosure is made in accordance with the provisions of any other law.

## Penalties for Misleading Advertisement:

- The CCPA may impose a penalty of up to INR 1,000,000 (Indian Rupees One Million) on a manufacturer or an endorser, for a false or misleading advertisement. The CCPA may also sentence them to imprisonment for up to 2 (two) years for the same. In case of a subsequent offence, the fine may extend to INR 5,000,000 (Indian Rupees Five Million) and imprisonment of up to 5 (five) years. The CCPA can also prohibit the endorser of a misleading advertisement from endorsing that particular product or service for a period of up to 1 (one) year. For every subsequent offence, the period of prohibition may extend to 3 (three) years.

## Endorsers liability:

- The New Act fixes liability on endorsers considering that there have been numerous instances in the recent past where consumers have fallen prey to unfair trade practices under the influence of celebrities acting as brand ambassadors. In such cases, it becomes important for the endorser to take the onus and exercise due diligence to verify the veracity of the claims made in the advertisement to refute liability claims.

# Conclusion

- The Consumer Protection Act, 2019 when compared with the 1986 Act shows that it provides for greater protection of consumer interests taking into consideration the current age of digitization.
- The 2019 Act also deals with the technological advancements in the industry, provides for easier filing of complaints and also imposes strict liability on businesses including endorsers for violating the interest of the consumers.



**THE END**